IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

MONDAY, THE 18TH DECEMBER 2006 / 27TH AGRAHAYANA 1928

OP.No. 5271 of 2002(C)

PETITIONER:

K.JAYADEVAN,
ARMOURER HEAD CONSTABLE,
DISTRICT ARMED RESERVE, THRISSUR.

BY ADV. SRI.K.G.ANIL BABU

RESPONDENTS:
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1. **THE STATE OF KERALA,**
   REP. BY THE SECRETARY, HOME DEPARTEMNT,
   GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. **THE DIRECTOR GENERAL OF POLICE,**
   POLICE HEAD QUARTERS, THIRUVANANTHAPURAM.

3. **THE DEPUTY INSPECTOR GENERAL OF POLICE,**
   THRISSUR RANGE, THRISSUR.

BY GOVERNMENT PLEADER SMT.SMITHA BABU

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 18/12/2006, ALONG WITH OP NO. 5440 OF 2002 OP NO. 5549 OF 2002 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH, J.

O.P.Nos.5271,5440 & 5549 of 2002

Dated this the 18th day of December, 2006.

JUDGMENT

The issue raised in these original petitions pertains to the dispute regarding the seniority in the Arrnourer unit in the police department. There is no dispute that the special rules governing the field were promulgated only as per SRO 1025/01 gazetted on 16.11.2001 (Ext.P7) in OP.No.5271/2002. It is stated in the special rules that the same would come into force at once. Therefore, the effect of the special rules is only from 16.11.2001,the date of publication of the special rules. Till such time, the seniority of the personnel in Armourer unit was governed by Exts.P1 and P1(a) Government orders of 1972 and 1984 respectively. The contention of the petitioners is that till 16.11.2001 the seniority of the personnel in the Armourer unit should be maintained state-wise. Learned Government Pleader referring to the counter affidavit submits that though Exts.P1 and P1(a) governed the field till the special rules were promulgated, the promotion to the post of Assistant Sub Inspector (Armourer) is made on state-wise. It is also submitted that promotion as Armourer (Head Constable) is ordered range-wise from the seniority of Armourer according to the seniority list in the respective ranges. However, it is admitted in para

16 of the counter affidavit that "when range-wise seniority list of Armourer Head Constables is maintained, the juniors who got promotion earlier than the seniors in the post of Armourer police constables will become seniors in the promoted post of Head Constable/Havildars. This technical anomaly can be remedied only if the state-wise seniority for Armourer Personnel from entry-cadre onwards is introduced and ordered with retrospective effect. But a change/review in the seniority list of Head Constables/Havildars with retrospective effect may invite complaints and litigation from many of the personnel. Hence the present system of range-wise seniority of Armourer Head Constables is preferred to be the better system for the Armourer Constabulary. The Government have accepted the proposal of the department to continue the present system of range-wise seniority of Armourer Constabulary. The Government have therefore issued special rules for the recruitment, promotion, prescribing qualification for the Armourer wing vide its order No.G.O(P) 210/2001 dated 7.11.2001. " I am afraid the grievance of the petitioners have not been properly appreciated by the Government. As already stated above, in view of the undisputed position that the special rules are intended to be effective only from 16.11.2001 the seniority is to be maintained state-wise till such time, as per Exts.P1 and P1(a). The

seniority is onething and the promotion is yet another thing. Though promotions are made range-wise the contention of the petitioners is that they are entitled to have the state-wise seniority maintained till 16.11.2001. It is seen that the issue was considered only at the level of the Director General of Police and in view of the stand in the counter affidavit , apparently the matter requires consideration by the Government. Accordingly these original petition are disposed of as follows:-

2. Petitioners file an appropriate representation before the Government within two months from today, in which event the matter will be duly considered by the Government with notice to the petitioners and the affected parties, in accordance with law, within a period of four months from the date of production of a copy of this judgment.

(KURIAN JOSEPH)
JUDGE

pmn/

KURIAN JOSEPH,J.

OP.NOs.5271,5440 &

5549 of 2002

JUDGMENT

18th Decem.+ber,2006.